

AMENDED IN SENATE JANUARY 4, 2000

AMENDED IN ASSEMBLY MAY 19, 1999

AMENDED IN ASSEMBLY APRIL 21, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1016

Introduced by Assembly Member Briggs

February 25, 1999

An act to add *and repeal* Sections 7099.1 and 21028 ~~to~~ of the Revenue and Taxation Code, and to add *and repeal* Section 13019 ~~to~~ of the Unemployment Insurance Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1016, as amended, Briggs. Confidentiality: taxpayer communications.

Under existing law, the Employment Development Department, the State Board of Equalization, and the Franchise Tax Board administer various taxes and fees.

This bill, in modified conformity to federal income tax laws, would, with respect to tax advice, provide that certain protections that apply to a communication between a client and an attorney shall also apply to a communication between a taxpayer and any federally authorized tax practitioner before the aforementioned state agencies to the extent the communication would be considered a privileged communication if it were between a client and an attorney,

as provided. *These provisions would be repealed on January 1, 2005.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7099.1 is added to the Revenue
2 and Taxation Code, to read:

3 7099.1. (a) (1) With respect to tax advice, the
4 protections of confidentiality that apply to a
5 communication between a client and an attorney, as set
6 forth in Article 3 (commencing with Section 950) of
7 Chapter 4 of Division 8 of the Evidence Code, shall also
8 apply to a communication between a taxpayer and any
9 federally authorized tax practitioner to the extent the
10 communication would be considered a privileged
11 communication if it were between a client and an
12 attorney.

13 (2) Paragraph (1) may only be asserted in any
14 noncriminal tax matter before the State Board of
15 Equalization.

16 (3) For purposes of this section:

17 (A) "Federally authorized tax practitioner" means
18 any individual who is authorized under federal law to
19 practice before the Internal Revenue Service if the
20 practice is subject to federal regulation under Section 330
21 of Title 31 of the United States Code.

22 (B) "Tax advice" means advice given by an individual
23 with respect to a state tax matter, which may include
24 federal tax advice as defined in Section 7525 of the
25 Internal Revenue Code if it relates to the state tax matter.

26 (b) The privilege under subdivision (a) shall not apply
27 to any written communication between a federally
28 authorized tax practitioner and a director, shareholder,
29 officer, or employee, agent, or representative of a
30 corporation in connection with the promotion of the
31 direct or indirect participation of the corporation in any
32 tax shelter (as defined in Section 6662(d)(2)(C)(iii) of
33 the Internal Revenue Code), *or in any proceeding to*



1 *revoke or otherwise discipline any license or right to*
2 *practice by any governmental agency.*

3 (c) This section shall be operative for communications
4 made on or after the effective date of the act adding this
5 section.

6 (d) *This section shall remain in effect only until*
7 *January 1, 2005, and as of that date is repealed, unless a*
8 *later enacted statute, that is enacted before January 1,*
9 *2005, deletes or extends that date.*

10 SEC. 2. Section 21028 is added to the Revenue and
11 Taxation Code, to read:

12 21028. (a) (1) With respect to tax advice, the
13 protections of confidentiality that apply to a
14 communication between a client and an attorney, as set
15 forth in Article 3 (commencing with Section 950) of
16 Chapter 4 of Division 8 of the Evidence Code, shall also
17 apply to a communication between a taxpayer and any
18 federally authorized tax practitioner to the extent the
19 communication would be considered a privileged
20 communication if it were between a client and an
21 attorney.

22 (2) Paragraph (1) may only be asserted in any
23 noncriminal tax matter before the Franchise Tax Board.

24 (3) For purposes of this section:

25 (A) “Federally authorized tax practitioner” means
26 any individual who is authorized under federal law to
27 practice before the Internal Revenue Service if the
28 practice is subject to federal regulation under Section 330
29 of Title 31 of the United States Code.

30 (B) “Tax advice” means advice given by an individual
31 with respect to a state tax matter, which may include
32 federal tax advice as defined in Section 7525 of the
33 Internal Revenue Code if it relates to the state tax matter.

34 (b) The privilege under subdivision (a) shall not apply
35 to any written communication between a federally
36 authorized tax practitioner and a director, shareholder,
37 officer, or employee, agent, or representative of a
38 corporation in connection with the promotion of the
39 direct or indirect participation of the corporation in any
40 tax shelter (as defined in Section 6662(d)(2)(C)(iii) of

1 the Internal Revenue Code), *or in any proceeding to*
2 *revoke or otherwise discipline any license or right to*
3 *practice by any governmental agency.*

4 (c) This section shall be operative for communications
5 made on or after the effective date of the act adding this
6 section.

7 (d) *This section shall remain in effect only until*
8 *January 1, 2005, and as of that date is repealed, unless a*
9 *later enacted statute, that is enacted before January 1,*
10 *2005, deletes or extends that date.*

11 SEC. 3. Section 13019 is added to the Unemployment
12 Insurance Code, to read:

13 13019. (a) (1) With respect to tax advice, the
14 protections of confidentiality that apply to a
15 communication between a client and an attorney, as set
16 forth in Article 3 (commencing with Section 950) of
17 Chapter 4 of Division 8 of the Evidence Code, shall also
18 apply to a communication between a taxpayer and any
19 federally authorized tax practitioner to the extent the
20 communication would be considered a privileged
21 communication if it were between a client and an
22 attorney.

23 (2) Paragraph (1) may only be asserted in any
24 noncriminal tax matter before the Employment
25 Development Department.

26 (3) For purposes of this section:

27 (A) “Federally authorized tax practitioner” means
28 any individual who is authorized under federal law to
29 practice before the Internal Revenue Service if the
30 practice is subject to federal regulation under Section 330
31 of Title 31 of the United States Code.

32 (B) “Tax advice” means advice given by an individual
33 with respect to a state tax matter, which may include
34 federal tax advice as defined in Section 7525 of the
35 Internal Revenue Code if it relates to the state tax matter.

36 (b) The privilege under subdivision (a) shall not apply
37 to any written communication between a federally
38 authorized tax practitioner and a director, shareholder,
39 officer, or employee, agent, or representative of a
40 corporation in connection with the promotion of the

1 direct or indirect participation of the corporation in any
2 tax shelter (as defined in Section 6662(d)(2)(C)(iii) of
3 the Internal Revenue Code), *or in any proceeding to*
4 *revoke or otherwise discipline any license or right to*
5 *practice by any governmental agency.*

6 (c) This section shall be operative for communications
7 made on or after the effective date of the act adding this
8 section.

9 (d) *This section shall remain in effect only until*
10 *January 1, 2005, and as of that date is repealed, unless a*
11 *later enacted statute, that is enacted before January 1,*
12 *2005, deletes or extends that date.*

